

CHAPTER 6 - WATER UTILITY

6.01 DEFINITIONS

(1) Debt Service shall mean the cost, including the principal, interest and coverage due on bonds, notes or other such instruments levied on users of the village water utility and its facilities for the cost of constructing such facilities.

(2) Operation and Maintenance Costs shall mean the expenses for labor, supplies, electrical power, repairs, up keep and other such items needed to keep the water utility facilities functioning on a daily basis.

(3) Replacement shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary to maintain the capacity and performance during the service life of the water utility.

(4) User shall mean any and all persons, including any individual, firm, company, industry, commercial enterprise, institution or government agency that uses water from the village's water utility.

(5) User Charge shall mean a charge levied on users of the village water utility and its facilities for the cost of operation, maintenance and replacement of such facilities as defined in this ordinance.

(6) User Charge System shall mean the principles of allocating the costs and the methods of collecting the revenue necessary to pay the annual operation, maintenance, replacement and debt service costs of the village water utility and facilities as defined in this ordinance.

(7) Village shall mean the Village of Deerfield, Wisconsin, or its authorized agent.

(8) Water System shall mean any water main or connector built, owned or operated by the Village.

(9) Water Utility Facilities shall mean the structure, equipment and processes designed to collect, carry and treat water in the Village.

(10) Other terms shall be as defined elsewhere in the Deerfield Village Code.

6.02 APPLICABILITY

All users of the public water system and water utility facilities shall be subject to the terms of Chapter 6 of Village Ordinances (also known as the Village Water Code).

6.03 USER CHARGE SYSTEM

(1) The costs associated with the public water system and the water utility facilities shall include the annual costs of operation, maintenance, replacement, and debt service as defined in ' 6.01.

(2) The user charge system shall be the primary means for the Village to recover the annual costs associated with the public water system and water utility facilities. A user charge shall be levied to generate sufficient revenue to pay all operating, maintenance and replacement costs of the water system and water utility facility, except as described herein.

(a) Maintenance and/or replacement costs for the laterals running from the curb stop to a particular building or structure shall be paid for by the owner of that building or structure.

(b) Maintenance and/or replacement costs for the laterals running from the main relay to and through the curb stop shall be paid for as prescribed by PSCW Docket No. 1570-WR-2, as may be amended.

(c) Maintenance and/or replacement costs for water main relays may be paid for by special assessment. The amount of such special assessments may be reduced to the extent that the Village Board determines that it is appropriate:

(i) to pay for maintenance and/or replacement of water main relays with general revenues; or

(ii) to pay for replacement of water main relays with Community Development Trust Fund monies where such replacements meet the eligibility criteria for the use of Community Development Trust Fund monies; or

(iii) to pay for replacement of water mains relays through the issuance of municipal obligations.

6.04 BILLING FOR WATER UTILITY SERVICE

(1) To Whom Account Shall Be Billed. As required by Wis. Stats. ' 196.643(2) (1991-92), as may be amended, if water service is measured jointly for 2 or more rental dwelling units, the owner shall maintain the account for water in the name of the owner or the name of the agent responsible for the collection of rent and the management of the rental dwelling units. The owner shall be listed as the owner appears on the tax rolls. If water service is measured individually, the resident (who may also be the owner) shall maintain the account for water.

(2) Regular Billing Cycle: Delinquencies. User charges for the water utility shall be billed monthly in the account holder's name. The amount billed shall be due and payable in full within twenty (20) days of issuance of the monthly statement. Charges shall be deemed delinquent if not paid in full within said twenty (20) day period.

(3) Delinquent Charges May Become Liens Against Real Estate. Delinquent Charges shall be a lien on the property served and arrearages shall be placed on the next succeeding tax roll for collection in accordance with law. Delinquent charges are added to the tax roll as of August 31 of each year.

(4) Notification of Delinquency. Account holders are automatically notified of delinquencies through the regular monthly statements. Prior to placing the Delinquent Charges on the tax roll, final written notification of delinquency shall be forwarded to both the account holder and the owner of the property, at the address listed on the tax roll.

(5) Conflicts and Severability. Where any terms or requirements of this ordinance may be inconsistent or conflicting with relevant state statutes or Public Service Commission or other administrative rules, the more restrictive requirements or interpretations consistent with state law shall control. If any section, provision or portion of this ordinance is found unconstitutional or invalid by a court, the remainder of the ordinance shall remain enforceable and shall not be affected by that ruling.

6.05 CROSS-CONNECTION CONTROL

(1) Chapters NR 111 and H62, Wisconsin Administrative Code, require protection of the public water system from contaminants due to back-flow of contaminants through the water service connection. The Wisconsin Departments of Natural Resources and Health and Social Services require the maintenance of a

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continuing program of cross-connection control which will systematically and effectively prevent the contamination of all potable water systems.

(2) A cross-connection shall be defined as any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the village water system, and the other, water from a private source, water of unknown or questionable safety, or steam, gases, or chemicals, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.

(3) No person, firm or corporation shall establish or permit to be established or maintain or permit to be maintained any cross-connection. No interconnection shall be established whereby potable water from a private, auxiliary, or emergency water supply other than the regular public water supply of the village may enter the supply or distribution system of said municipality, unless such private, auxiliary, or emergency water supply and the method of connection and use of such supply shall have been approved by the Village Board and by the Wisconsin Department of Natural Resources in accordance with Section NR 111.25(3), Wisconsin Administrative Code.

(4) It shall be the duty of the Village Board to cause inspections to be made of all properties served by the public water system where cross-connections with the public water system are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Village Board and as approved by the Wisconsin Department of Natural Resources.

(5) Upon presentation of credentials, the representative of the Village Public Works shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the village for cross-connections. If entry is warranted, such representative shall obtain a special inspection warrant under s. 66.122, Wisconsin Statutes. On request the owner, lessee, or occupant of any property so served shall furnish to the Village Board any pertinent information regarding the piping systems on such property.

(6) The Village Board is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this ordinance exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice and opportunity for hearing under Chapter 68, Wisconsin Statutes, except as provided in Section (7) here of. Water service to such property shall not be restored until the cross-connection(s) has been eliminated in compliance with the provisions of this ordinance.

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(7) If it is determined by the Village Board that a cross-connection or an emergency endangers public health, safety, or welfare and requires immediate action, and a written finding to that effect is filed with the Village Clerk and delivered to the customer's premises, service may be immediately discontinued. The customer shall have an opportunity for hearing under Chapter 68, Wisconsin Statutes, within 10 days of such emergency discontinuance.

(8) The village hereby adopts by reference the State Plumbing Code of Wisconsin, being Chapter H62, Wisconsin Administrative Code.

(9) This ordinance does not supersede the State Plumbing Code and Chapter 14, Deerfield Village Code, but is supplementary to them.

6.06 PRIVATE WELL ABANDONMENT

(1) Statement of Purpose. To prevent unused and/or improperly constructed wells from serving as a passage for contaminated surface or near-surface waters or other materials to reach the usable ground water. These wells must be properly filled and sealed.

(2) Coverage. All private wells located on any premises which is served by the public water system of the Village shall be properly filled by December 31, 1983. Only those wells for which a well operation permit has been granted by the Village Clerk, after approval by the Village Board, may be exempted from this requirement, subject to conditions of maintenance and operation.

(3) Well Operation Permits. A permit may be granted to a well owner to operator a well for a period not to exceed three (3) years if the following requirements are met.

- (a) The well and pump installation meet the requirements of Chapter NR 112, Wisconsin Administrative Code, and a well constructor's report is on file with the Department of Natural Resources, or certification of the acceptability of the well has been granted by the Private Water Supply Section of the Department of Natural Resources.
- (b) The well has a history of producing safe water and presently produces bacteriologically safe water as evidenced by three sampling's two weeks apart.

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- (c) The proposed use of the well can be justified as being necessary in addition to water provided by the public water system.
- (d) No physical connection shall exist between the piping of the public water system and the private well.

(4) Methods. Wells to be abandoned shall be filled according to the procedures outlined in Chapter NR 112, Wisconsin Administrative Code, as amended. The pump and piping must be removed and the well checked for obstructions prior to plugging. Any obstruction or liner must be removed.

(5) Reports and Inspection. A well abandonment report must be submitted by the well owner to the Department of Natural Resources on forms provided by that agency (available at the office of the Village Clerk). The report shall be submitted immediately upon completion of the filling of the well. The filling must be observed by a representative of this municipality.

(6) Penalties. Any person, firm, or other well owner violating any provision of this section shall upon conviction forfeit not less than \$10.00 nor more than \$100.00 together with the cost of prosecution. Each 24-hour period during which a violation exists shall be deemed and constitute a separate offense.

6.07 WATER METER TAMPERING

It shall be unlawful for any person, company, or other party defined as "customer" in subsection PSC 185.12(2), Wis. Adm. Code, to tamper with or damage any water meter, hydrant, valve, or other water utility property located on any property in the village, without the prior consent of the Deerfield Water Utility. In addition to all other remedies which may be available to the village or Water Utility, any violation of this Section 6.08 shall upon conviction be subject to a forfeiture of not less than \$100.00 nor more than \$1,000.00, together with the cost of repair and prosecution.

Each 24-hour period during which a violation exists may be deemed and constitute a separate offense.

6.08 SWIMMING POOLS

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(1) Permit Required. Pool construction or installation requires a building permit issued in accordance with Chapter 12 of the Village Code if the anticipated cost, including accessories and landscaping, exceeds \$1,000. (\$500.00 materials.)

(2) Location and Design. The location and design of all outdoor pools, including the associated landscaping, decking, electrical hookups and lighting, require prior approval of the building inspector. The inspector shall consider neighborhood aesthetics, tranquility and public safety. The inspector's decision may be over-riden by a majority vote of the Village Board. In no event shall pools be permitted in front yards, other than small children's plastic-type pools.

(3) Fences Required. Surrounding fences at least four feet in height and four foot high self-closing and self latching gates which meet the building inspector's approval are required for all in ground pools. An alternative to the required fencing for in ground pools would be per the specifications of the American Society for Testing and Materials, Designation F 1346-91, 3.1.2 Power Safety Covers, requiring a motorized automatic cover for a pool. Above ground pools need not be fenced if the pool wall is at least four feet above ground. Ladders for above ground pools must be removable or have a self closing and self latching gate.

(4) Filling and Draining.

(a) Pool owners with one (1) meter shall pay regular water and sewer rates with no exceptions.

(b) People who wish to install a second meter for lower rates with no sewer charge, for the purpose of filling a pool, watering their lawns or garden, etc., may do so. The Village supplies the meter but the person requesting the meter must pay for electrical and plumbing cost, plus a monthly charge on the meter and water consumption charges.

(c) If a second meter is installed, there will be a \$35.00 disconnection fee, payable to the Deerfield Water Utility, to have it removed. Pools cannot be drained onto adjoining property, but shall be drained such that the water is absorbed on site or discharged systematically into the Village storm sewer system.

(5) Penalties. In addition to the penalties that may be provided for elsewhere in the Village Code, owners of pools constructed, operated or maintained in violation of this section may be required to forfeit not less than Twenty Dollars (\$20.00) nor more than Five Hundred Dollars (\$500.00) for such violation. Each day or part of a day during which such violation continues shall constitute a separate violation. In addition, pools constructed, operated or maintained in violation of this

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section may be removed by order of the Village Board with the costs of removal assessed against the property owner.

6.09 WELLHEAD PROTECTION

(1) General Provisions

(a) Title

This section shall be known, cited and referred to as the "Wellhead Protection Ordinance" (hereafter "WHP Ordinance").

(b) Purpose and Authority

1. The residents of the Village of Deerfield (hereafter Village) depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of the WHP Ordinance is to institute land use regulations and restrictions to protect the Village's municipal water supply and well fields, and to promote the public health, safety and general welfare of the residents of the Village.

2. These regulations are established pursuant to the authority granted by the Wisconsin Legislature in 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically includes groundwater protection to the statutory authorization for municipal planning and zoning in order to protect the public health, safety and welfare.

(c) Applicability

The regulations specified in the WHP Ordinance shall apply within the Village's corporate limits.

(2) Definitions

(a) Existing Facilities Which May Cause Or Threaten To Cause Environmental Pollution - Existing facilities which may cause or threaten to cause environmental pollution within the corporate limits of the Village's well fields' recharge areas. These facilities include, but are not limited to, facilities on the Wisconsin Department of Natural Resources' list referred to as "Inventory of Sites or Facilities Which May Cause or Threaten to Cause Environmental Pollution," Department of Industry, Labor and Human Relations' (hereafter DILHR) list of

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Underground Storage Tanks (hereafter UST's) and DNR's or DILHR's list of facilities with hazardous and/or solid waste permits.

(b) Groundwater Divide - Ridge in the water table, or potentiometric surface, from which ground water moves away at right angles in both directions. Line of highest hydraulic head in the water table or potentiometric surface.

(c) Wellhead and Groundwater Protection District ("WHP District") - That area defined in the WHP Ordinance and more fully described on the map attached as Exhibit A and incorporated herein as if fully set forth.

(d) Recharge Area - Area in which water reaches the zone of saturation by surface infiltration and encompasses all areas or features that supply groundwater recharge to a well. The well field's recharge area extends to the groundwater divide (as determined by the United States Geological Survey Water Supply Paper 1779-U, incorporated herein as if fully set forth).

(e) Well Field - A piece of land used primarily for the purpose of supplying a location for construction of wells to supply a municipal water system.

(3) Establishment of Wellhead and Groundwater Protection District

(a) Intent and Purpose. To the extent possible, the Village intends to protect the groundwater within the well field's recharge area. Because of the actual or possible contamination in this area is a clear threat to public health and safety, the Village wishes to and, to the extent permitted by law, shall regulate the use and development of the lands that are within this area.

(b) Establishment of District. The Village hereby establishes a Wellhead and Groundwater Protection District(s) (hereinafter "WHP District"). The WHP District shall extend to the area within each of the Village well's well field recharge areas. The WHP District is more fully described on Exhibit A, which is incorporated herein by reference.

(4) Uses Within the WHP District

(a) Permitted Uses. The uses described in this section of the WHP Ordinance are the only permitted uses within the WHP District.

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1. Parks, provided there is no on-site waste disposal, UST's or fuel storage tank facilities associated within this use.
2. Playgrounds.
3. Wildlife areas.
4. Non-motorized trails, such as biking, skiing, nature and fitness trails.
5. Residential uses that are municipally sewered, free of flammable and combustible liquid and free of UST's.
6. Agricultural uses that do not degrade the overall groundwater quality.¹

Any and all permitted uses shall remain subject to temporary or permanent environmental and safety monitoring by the Village at the land owner's expense. Such monitoring shall be imposed where the Village determines it is reasonably necessary to protect public health, safety and welfare. Unless otherwise agreed between the land owner and the Village, the charges for such monitoring shall be imposed on the land owner as a special charge in the manner prescribed by Wis. Stats. '66.60(16). The monitoring shall be conducted in a manner that is consistent with standards established by local, state and federal law.

(b) Conditional Uses.

1. Individuals and/or facilities that are not permitted may request the Village to conditionally permit additional land uses in the WHP District.
2. All requests for a conditional permit shall be in the form of an application in writing. The applicant may be required to complete a form provided by the Village Clerk.

¹ A feedlot is one example of an agricultural use that would degrade the overall groundwater quality. Other agricultural uses may also degrade the overall groundwater quality and, therefore, must be considered on a case-by-case basis.

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3. All applications shall include an environmental assessment report prepared by a licensed environmental engineer describing the proposed use and its potential environmental effects on the WHP District, well field and recharge area. The report shall be made at the applicant's expense and shall be forwarded to the Village Engineer or designee(s) for review and recommendation to the Plan Commission and Village Board.

4. The Plan Commission shall complete the initial review of the application materials, request any additional information it deems necessary or desirable, consider the Village Engineer's and/or designee(s)'s recommendations, and make a recommendation to the Village Board. A public hearing shall be held by the Village Board. After consideration of the Plan Commission's and the public's recommendations, the Village Board shall make a final decision on the application and shall approve, deny or defer with such conditions as the Village Board determines reasonable.

5. Any and all conditional uses shall remain conditional and subject to temporary or permanent environmental and safety monitoring by the Village at the land owner's expense. Such monitoring shall be imposed as indicated in the conditional use permit and/or where the Village determines it is reasonably necessary to protect public health, safety and welfare. Unless otherwise agreed between the applicant/land owner and the Village, the charges for such monitoring shall be imposed on the applicant/land owner as a special charge in the manner prescribed by Wis. Stats. '66.60(16). The monitoring shall be conducted in a manner that is consistent with standards established by local, state and federal law.

6. The applicant shall reimburse the Village for all consultant fees, including but not limited to engineering, surveying and/or legal fees, associated with this review at the invoiced amount plus administrative costs.

(c) Prohibited Uses. Uses that are either not listed as permitted or not approved as conditional are prohibited and subject to the penalties described herein.

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(d) Continuing Requirements for Existing and/or Approved Facilities.

1. Facilities shall provide copies of all federal, state and local facility operation approvals or certificate and on-going environmental monitoring results to the Village.

2. Facilities shall provide additional environmental or safety structures/monitoring as deemed necessary by the Village, which may include but are not limited to stormwater runoff management and monitoring.

3. Facilities shall replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence.

4. To the extent required by the Village, facilities shall have the responsibility of devising and filing with the Village a contingency plan satisfactory to the Village for the immediate notification of Village officials in the event of an emergency.

(5) Enforcement

(a) In the event the individual and/or facility causes the release of any contaminants which endanger the WHP District, the activity causing said release shall immediately cease and a cleanup shall be completed in compliance with Village, State and Federal laws, regulations, ordinances and authorities.

(b) The individual/facility shall be responsible for all costs of cleanup, including Village consultant fees, including engineering and legal fees, at the invoice amount plus administrative costs for oversight, review and documentation.

1. The cost of Village employees' time associated in any way with the clean up shall be based on the hourly rate paid to the employee multiplied by a factor determined by the Village representing the Village's cost for expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits.

2. The cost of Village equipment employed.

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3. The cost of mileage reimbursed to Village employees attributed to the cleanup.

4. The cost of consultant fees shall be the invoice amount to the Village.

(c) Following any such discharge the Village may require additional test monitoring, other evidence of compliance and/or bonds/sureties.

(d) In addition to any other remedies that may be available, the Village may impose a forfeiture no less than \$50 and no greater than \$500 for a violation of the WHP Ordinance, as well as costs of prosecution. Each day that the violation occurs shall be considered a separate offense.

6.10 WATER SERVICE CONNECTION

For each duplex dwelling built in the Village of Deerfield it is required that each unit have an individual curb stop valve and water meter. This requirement shall not be construed to require separate laterals from the main.